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BEFORE THE SUBCOMMITTEE ON ANTITRUST, IMPACT OF  
DEREGULATION, AND PRIVATIZATION  
COMMITTEE ON SMALL BUSINESS  
U.S. HOUSE OF REPRESENTATIVES  
REGARDING ECONOMIC REGULATION OF MOTOR CARRIERS OF PROPERTY  
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Mr. Chairman and Members of the Committee, thank you for inviting me here today to discuss the Administration's views on economic regulation of motor carriers, particularly as it affects small business. I might add, Mr. Chairman, those of us who share your interest in trucking deregulation are very pleased that you have taken time from your busy schedule to become actively involved in this important issue.

The Motor Carrier Act of 1980 (MCA) has now been in effect for more than seven years. For much of that time, the trucking industry was burdened by weak demand for its services. However, even during difficult times, the industry as a whole continued to provide good service to shippers and receivers -- large and small -- throughout the nation.

Overall, there is an enormous body of evidence that the MCA has had significant, positive effects on the trucking industry. With the freer entry permitted under deregulation, there are now substantially more trucking firms available to provide interstate transportation. The number of firms with Interstate Commerce Commission operating authority has grown substantially -- from

roughly 18,000 in 1980 to about 37,000 in 1986. Over 33,000 of these carriers are relatively small businesses -- carriers with revenues less than \$1 million per year.

### Service Benefits

New price and service options have been introduced. Established carriers have become more efficient and innovative, for example, by restructuring routes, reducing empty backhauls, providing simplified rate structures, and offering shippers incentives to move freight more efficiently.

Shippers, including small businesses, now play a far more active role in the distribution process. They have a hand in negotiating rates and a greater choice in selecting carriers. They can consolidate shipments themselves or through third parties, including brokers and shipper associations, contract for particular services, and work with carriers to design transportation services best meeting their overall needs.

As one step in broadening our understanding of the impact of trucking regulatory reform on the overall distribution systems of shippers and receivers, DOT commissioned a series of in-depth interviews with nine companies, including several small businesses. Results from these interviews confirm that shippers are becoming more sophisticated and that the new price and service options available allow them to obtain service that better meets their individual needs.

Six of the nine shippers interviewed in this DOT study said that truck service had improved since partial deregulation.

Although three of the nine shippers noted no improvement in truck service, two of the three nevertheless expressed a preference for deregulation, as opposed to pre-1980 regulation.

In addition, DOT has been studying small community trucking service since 1979. Many of the shippers and receivers surveyed are small businesses. The most recent phase of this study (1984-1985) reaches essentially the same conclusions as the previous post-deregulation phases (1980-1983): service quality and quantity have not diminished for the vast majority of shippers and receivers located in small communities surveyed in this investigation. In fact, the number of competing carriers serving rural areas has increased, on balance, since the passage of the MCA. Improvements in service quality and competition were reported ten times more often than deteriorations, regardless of the remoteness of the shipper or receiver's location.

Overall, 98 percent of all respondents to the study thought that post-deregulation truck service was as good as or better than before. Moreover, shippers and receivers in very remote areas were as satisfied with their truck service as were small community respondents in more accessible areas: 97.3 percent of the really rural shippers and receivers -- those more than 25 miles from an interstate highway -- reported that overall service quality was as good as or better than pre-deregulation service.

While trucking deregulation has resulted in many immediate benefits, the long-term results may be even more significant. Overall distribution productivity is benefiting from improved

information and inventory management systems, as well as from the greater transportation efficiency made possible by regulatory reform. Together, these trends are resulting in a virtual distribution revolution. One senior transportation executive has estimated that the net result has been a reduction of about \$50 billion in annual logistics expenditures in the United States.

### Worldwide Competitiveness

Further trucking deregulation could result in even more savings, primarily from lower transportation and inventory carrying costs. These additional savings could help to improve the productivity and the ability of U.S. industries to compete in both domestic and international markets. With the availability of computers, high speed communications, and other modern transportation and logistics technology, our business perspective must be enlarged to consider global competition and the worldwide marketplace. New methods of doing business learned from our foreign competitors such as reduced inventory, including just-in-time inventory management, require flexibility in our distribution system which has already been enhanced through regulatory reform -- but needs more.

Because of continued regulation in the U.S., it is cheaper in some trades to ship goods from overseas than it is to ship the same goods within the U.S. Domestically produced items are transported within the U.S. an average of eleven times, from raw material to final consumer, whereas imported products may be transported only once or twice from the port of entry. Thus, any

action we can take to reduce transportation costs in domestic markets will have a significant and disproportionate effect on lowering the costs of domestic products vis-a-vis imported products and foreign products in overseas markets.

Congress made numerous improvements in ICC rate regulation as a result of the MCA. However, many inconsistencies remain. For example, the MCA exempted certain types of animal feed from regulation, including livestock and poultry feed, but not dog food. The small farmer or rancher gets the benefit of reductions on feed for livestock, but not for the faithful dog who helps herd the cattle or sheep. The rates for dog food are 10 to 35 percent higher than livestock feed rates.

Chicken, turkey, and fish TV dinners are exempt from ICC regulation. But substitute a hamburger patty for the chicken leg and the freight rate becomes 20 to 25 percent higher.

Empty, used beer bottles and kegs were once regulated. These containers got a reprieve from federal regulation when the ICC decided that bottles and kegs were included in the exemption for "used, empty shipping containers." As a result freight rates for transporting them fell 20 to 30 percent. Why? The truckers' costs aren't less -- the extra charges -- as in the case of dog food and hamburger patties -- were simply an artifact of regulation.

### Financial Results

The trucking industry is now in a period of sustained profitability. For the twelve months ending March 31, 1987,

compared to the same period of 1986, the large motor carriers showed gains of 5.6 percent in operating revenues, and an increase of about 5.0 percent in revenue tons hauled. Return on equity increased to about 13.5 percent. However, even with the improvement in overall economic conditions, vigorous price competition has continued to exert a moderating influence on carriers' profitability.

With regard to smaller carriers, DOT has sponsored a study examining the impact of regulatory reform on small carriers. This survey of nearly 1,200 randomly selected Class III (less than one million dollars in annual revenues) carriers, completed during the recession, showed that conditions among these carriers were better than most had alleged. Small Class III carriers appear to be doing about as well as larger carriers.

### Employment

Total employment in the trucking services industry is at its highest level in a decade and is up 393,000 since 1979. While partial deregulation may have accelerated the long-term decline in the number of Teamsters Union drivers, the overall unemployment rate in the trucking services industry has come down sharply from the recession-induced high of 10.6 percent in 1982-1983 to 5.9 percent in the second quarter of 1987, which is slightly below the rate for the civilian labor force as a whole.

### Women and Minorities

Before the MCA, the strict entry policy of the ICC acted to restrict opportunities for would-be truckers. This resulted in a

very low representation of women and minorities in the trucking industry. Since passage of the MCA, the number of minority-owned trucking firms has more than tripled to a total of 414. Before the MCA, there were 298 motor carrier firms owned by women. That number has almost tripled to 824. In addition, there are 79 minority or women-owned firms with freight broker authority.

### Brokers

Brokers and shipper associations are consolidating an increasing number of less-than-truckload shipments, "topping off" loads, and otherwise helping the trucking industry to operate efficiently. Such "third parties," often small businesses themselves, can provide important services to small shippers and carriers in today's less regulated environment.

Since motor carrier deregulation, the number of brokers has grown from 100 to 4,500 and their market share has risen from one percent to 18 percent. To the shipper, the broker may offer lower rates or faster, better, or more varied services. A broker is the shipper's "window on the transportation world." These middlemen know what equipment is available, where it is available, and what it is going to cost.

### Owner-Operators

The Motor Carrier Act contained four provisions directed at improving the financial condition of owner-operators, i.e., small-scale truckers who own and operate their own rigs: (1) special authority to haul processed foods on backhauls; (2) expansion of the list of commodities that are exempt from ICC regulation; (3)

increased flexibility for agricultural cooperatives to transport non-farm freight; and (4) relaxed requirements for entry into the regulated sector. All of these provisions make it easier for carriers to handle a wider range of commodities and to serve more locations. This also means that shippers -- including small businesses -- have more service options. According to the ICC, since the MCA, 1,900 owner-operators have received operating authority, with 283 of these receiving authority in FY1986.

#### Antitrust Immunity

The Motor Carrier Rate-making Study Commission was established by the MCA to study the remaining collective rate-making process for motor carrier rates and the need for continued antitrust immunity. The Study Commission's report concluded that antitrust immunity raises rates above what they would otherwise be, does not prevent unjust discrimination, and does not ensure either rate uniformity or tariff simplicity.

Antitrust immunity for single-line rate-making was removed as scheduled under the Motor Carrier Act on July 1, 1984. However, rate bureaus continue to have antitrust immunity for joint-line rates, general rate increases, classification of commodities by their transportation characteristics, and overall rate restructuring.

A recent DOT study found that, after Florida and Arizona totally deregulated their intrastate trucking industries, and antitrust immunity was removed for intrastate rates, intrastate truck rates rose more slowly than interstate truck rates for



movements involving the same commodities and routes. Removal of antitrust immunity will ensure that the benefits of truly competitive pricing are extended to all shippers.

### State Regulation

The 1980 federal reforms do not necessarily apply in the case of intrastate operations. More than forty states still regulate trucking within their borders -- including many movements which are simply continuations of interstate or foreign shipments (e.g., deliveries, within Texas, of imported TV sets and rugs manufactured in Georgia). Strict regulation in many states results in inefficiencies for carriers and higher transportation costs for everyone. In Texas, a Dallas-based snack-food company is compelled to ship corn chips from Jackson, Mississippi to San Antonio, rather than from its closer Lubbock plant. Although Jackson is located 200 miles further from San Antonio than Lubbock, the shipper saves \$95 per truckload by avoiding Texas intrastate rates. Another food products manufacturer brings in consumer products, such as dog food and granola bars, to its Dallas distribution center from outside the State. It then distributes these products all over Texas. In some cases it must use Texas intrastate carriers for this distribution -- in others it can use interstate carriers. The resulting distribution costs are as follows, per truckload:

	<u>Interstate</u>	<u>Intrastate</u>
Dallas to San Antonio	\$575	\$ 736
to El Paso	875	1328
to Houston	550	684

The average savings last year on just 822 loads was \$250 per load, totaling \$205,500.

A similar situation finds a California salt company shipping to its Southern California markets from Utah rather than from Northern California because of the high intrastate rates.

Preemption of intrastate regulation would also permit small and large carriers to enter many state markets currently served by only a limited number of carriers. As an example, we understand that Texas has only permitted a few new common carriers of general commodities into the market since 1946, with the result that the four largest carriers control about 86 percent of the freight moved within the State. What makes this high concentration even worse is the fact that in Texas, as in other states, these carriers have immunity from the antitrust laws to set their rates collectively. The result is that freight rates paid by large and small shippers are perhaps as much as 30 or 40 percent higher than interstate rate levels.

For small shippers, according to the Small Business Administration (SBA), real rates for truckload shipments have plummeted nearly 25 percent due, primarily, to the lower labor costs enjoyed by non-union new entrants. Overall, increased competition has caused less-than-truckload (LTL) rates to decline almost 16 percent since 1980.

### Safety

Questions have been raised about the effect of relaxed motor

carrier entry on highway safety. We have carefully monitored the trucking industry's safety record since implementation of the Motor Carrier Act of 1980 and have found no valid statistical evidence linking the presence or absence of economic regulation with the safety performance of motor carrier operations.

Fatal accidents, fatalities, and injuries involving large combination trucks have been consistently lower since 1980 than they were in the prederegulation years of 1978 and 1979.

The Department, through the Federal Highway Administration's Office of the Associate Administrator for Motor Carriers and the National Highway Traffic Safety Administration, is continuing to set and enforce federal truck safety standards and to work with the states to improve their inspection and enforcement efforts.

During 1985, the Secretary of Transportation's Safety Review Task Force reviewed the motor carrier safety program of the Federal Highway Administration (FHWA). Significant increases in resources at both the federal and state levels and a redefinition of federal and state roles in assuring motor carrier safety were recommended. The Task Force also recommended a complete overhaul of the FHWA program, based on improved use of resources to better identify high-risk carriers and target them for monitoring and enforcement.

To carry out the recommendations of the Task Force, the Secretary requested in DOT's FY1987 budget submission, and the Congress approved, a 200 percent increase in funding for state truck safety efforts through the Motor Carrier Safety Assistance

Program (MCSAP), to an annual level of \$50 million. In addition, we provided an increase in the FHWA staff of 150 safety specialists, bringing the total number to over 300. MCSAP strengthens state programs by providing funding to train and employ thousands of safety inspectors. This program enables DOT to assist states in placing more state inspectors on the road to check drivers and vehicles for compliance with the federal and state safety rules. One of the primary reasons we have been able to move forward with the new national program is because the States have accepted the responsibility for the important job of roadside inspections. MCSAP is continuing to grow, with 45 States and 5 Territories participating in 1987. The Commercial Motor Vehicle Safety Act of 1986 provided contract authority for the program to assure that states have a stable funding source. The Act also increased authorized MCSAP funding to \$60 million starting in fiscal year 1989 and authorized the Commercial Drivers License program. In FY1986, the federal-state partnership resulted in 551,000 driver and vehicle inspections, with over 43,000 drivers and 214,000 unsafe vehicles removed from service for imminently hazardous violations of the safety regulations. Projections for FY1987 indicate that we can expect more than a million driver and vehicle inspections. The increased likelihood of detection, coupled with the possibility of significant penalties, helps to assure a high degree of compliance with the safety regulations.

#### Further Trucking Deregulation

The Administration has sent legislation to Congress that

would complete the job of economically deregulating the interstate trucking industry. This bill, the "Trucking Productivity Improvement Act of 1987," has been introduced as H.R. 2591 and S. 1710. These provisions are also contained in the Administration's proposal to sunset the Interstate Commerce Commission (ICC) and have been submitted to Congress as Title IV-C of the "Trade, Employment and Productivity Act of 1987."

The regulatory reforms enacted in 1980 have been a good first step, resulting in increased competition, more efficient distribution of goods, and simplified rate structures. Now is the time to take the final steps in removing outdated and unneeded restrictions on the trucking industry.

Both consumers and shippers will further benefit from removal of all economic restrictions on trucking, which will ensure that all rates and services will be fully responsive to competitive forces and the needs of shippers.

The proposed trucking deregulation legislation would not affect federal truck safety standards, which are set and enforced by DOT's Federal Highway Administration and National Highway Traffic Safety Administration. Nor would the legislation change current statutory provisions requiring DOT to set financial responsibility requirements, such as insurance.

Major Features of the "Trucking Productivity Improvement Act of 1987" (TPIA)

Our bill would:

- o Eliminate all remaining ICC regulation of trucking rates and entry.

This would allow interstate truckers to carry whatever commodities they wish, over routes they select, at rates which are agreeable to them and their customers. Total deregulation would eliminate all requirements except for safety and insurance and thus is expected to improve opportunities particularly for owner-operators because they could deal directly with shippers or use freight brokers to arrange for loads.

o Eliminate antitrust immunity for collective ratemaking.

This is a crucial provision of the TPIA. Removal of antitrust immunity will ensure that the benefits of truly competitive pricing are extended to all shippers, including small businesses. We believe that antitrust immunity for collectively made rates -- generally dominated by the large carriers -- stands in the way of lower rates for less-than-truckload service often utilized by small shippers.

o Eliminate tariff filing and publication requirements.

In spite of obtaining increased ratemaking flexibility, all motor common carriers must still publish their rates and file them with the ICC. Removal of this requirement will remove a massive paperwork burden, impacting disproportionately on small carriers, and allow carriers to respond more quickly to the needs of shippers.

o Eliminate all ICC truck leasing rules.

Leases should be dictated by economic efficiency and the mutual needs of the parties involved. Artificial

restrictions covering the duration of the contract and compensation applicable to the leased operations of private and for-hire carriers are a carryover from the days of regulation designed to protect the large regulated for-hire carriers at the expense of competition from smaller carriers. Such arrangements can be made more satisfactorily under ordinary commercial law.

- o Eliminate ICC jurisdiction for motor common carrier cargo liability requirements.

Motor carriers would continue to be subject to the "Carmack" amendment providing for carrier liability, with one important difference. The involvement of the ICC is removed with respect to these agreements between shippers and motor common carriers of property. Under this amendment, a shipper and a carrier may agree to limit the liability of the carrier as long as the carrier also offers a contract of carriage without such limitation. Disputes concerning such agreements would be adjudicated under uniform federal law.

- o Make brokers eligible to handle government traffic.

The TPIA broadens the scope of transportation options available to the U.S. Government by authorizing the use of "non-common" carriers such as brokers and freight forwarders, often small businesses themselves.

- o Transfer jurisdiction for consumer protection in household goods carriers' operations to the Federal Trade Commission (FTC).

Under the bill, motor carriers would be subject to the general jurisdiction of the FTC, as are almost all other industries. In order to address the needs of individual consumers, who do not regularly deal with trucking companies, the Administration's bill retains the existing consumer protection provisions for household goods movements. The FTC would be required to review these household goods consumer protection regulations, revise them as appropriate, and remove any that are outdated or ineffective.

o Preempt state regulation of interstate motor carriers.

A provision is added which prevents state and other non-federal government agencies from enacting or enforcing any regulations concerning interstate or intrastate rates, routes, or services of any motor carrier or motor private carrier that provides interstate transportation of property. This is meant to prevent state regulation from eroding the benefits of deregulation at the federal level, and by permitting additional carriers in the market, would enhance competition and likely permit a reduction in rates paid by large and small shippers. It would also permit smaller firms to more easily operate in some states, where current entry controls restrict or limit operations to a select group of established carriers.

Summary

Since the passage of the MCA, truck service has remained good. Small carriers appear to have weathered difficult



economic conditions as well as their larger rivals. Service to small and rural communities remains highly satisfactory, even in Florida and Arizona, which have removed all economic regulation from their intrastate trucking industries.

In summary, it is clear that substantial transportation deregulation has benefited both small truckers and small shippers. Greater options, expanded markets, and innovative services have characterized transportation services over the last seven years. Moreover, according to the SBA, the national freight bill is down from 7.7 percent of GNP in 1980 to 6.7 percent in 1986. Prices now more accurately reflect actual costs, and consumers are able to choose between better quality services at somewhat higher prices, or generally the same service quality as before deregulation at lower prices.

The reforms provided by the MCA comprised a good first step toward complete deregulation of the trucking industry. We believe that now is the time to take the final steps necessary to complete that process. Any remaining economic regulation of the trucking industry is unneeded and undesirable, because there is ample competition within the industry as well as from other modes. Such regulation suppresses managerial initiative and innovation, as well as wasting valuable resources that the trucking industry could employ more usefully in improving its productivity.

That concludes my prepared statement, Mr. Chairman. Again, let me say I am delighted that your Committee has taken an interest in this important issue. I will now be glad to answer any questions that you or other Members of this Committee may have.